

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

DAVID UPTON,

Petitioner,

No. C 11-2926 PJH (PR)

v.

**ORDER OF TRANSFER**

ANDRE BIROTTE, JR., United States  
Attorney for the Central District of  
California,

Respondent.

Petitioner seeks a writ of mandamus compelling the United States Attorney for the Central District of California to seek criminal indictments of several central district judges and the Chief Judge of the Ninth Circuit. He contends that the judges had various roles in the dismissal of his pro se section 1983 lawsuit and the rejection of his attempts to require a magistrate judge to recuse himself.

Venue is proper in a mandamus action against an “officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority,” as here, in “any judicial district in which (1) a defendant in the action resides, (2) a substantial part of the events or omissions giving rise to the claim occurred . . . , or (3) the plaintiff resides. . . .” See 28 U.S.C. 1391(e).

It appears that the United States Attorney for the Central District resides in the central district, the events giving rise to this petition occurred in that district, and petitioner resides there. Venue therefore is proper only in the central district.

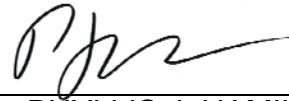
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This case is **TRANSFERRED** to the United States District Court for the Central District of California. See 28 U.S.C. § 1406(a).

**IT IS SO ORDERED.**

Dated: June 27, 2011.



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PHYLLIS J. HAMILTON  
United States District Judge